IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6841 OF 2005

1. Sanjay Hanmant Shinde,
2. Yuvraj Dinkar Bodake ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri A.P. Mundargi, Sr.Advocate with Shri Ganesh Gole for the Applicants.
Ms S.D. Shinde, A.P.P. for the Respondent.

CRIMINAL APPLICATION NO. 7034 OF 2005

Narayan Sadashiv Shinde ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri Vijay Hiremath & Rebecca Gonsalvez for the Applicant.
Ms S.D. Shinde, A.P.P. for the Respondent.

CRIMINAL APPLICATION NO.7117 OF 2005

Rajendra Narayan Shinde ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri A.P.Mundargi, Sr.Advocate with Shri Ganesh Gole for the Applicant.
Shri K.V.Saste, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 28, 2005.

P.C.:

1. The submissions of the Counsel appearing for the parties were heard yesterday. These Bail Applications can be disposed of by a common order as these Applications relate to the same offence. The Applicants in these three Applications are accused Nos.1 to 4 against whom offence has been registered

under sections 302, 143, 147, 148, 149 read with section 34 of the Indian Penal Code. The allegation is as regards murder of one Bhorya Narayan Bhosale. It is not in dispute that the other accused persons viz; the accused Nos.5 to 19 have been enlarged on bail under the orders of the Sessions Court dated 18th May, 2005. The Sessions Court seems to have denied bail to the Applicants in these Applications mainly on the ground that their names figure in the F.I.R.

2. The learned Counsel appearing for the Applicants have taken me through the statements of the witnesses and other documents produced alongwith the chargesheet. It is contended that names of atleast three Applicants out of four do not figure in the F.I.R. It is submitted that the evidence of the witnesses is totally inconsistent. Lastly, it is submitted that there is no major difference between the role ascribed to the applicants and other accused who have been enlarged on bail and appearance of names in the F.I.R. cannot be the only ground to reject the Applications for bail. The learned A.P.P. invited my attention to the statements of the witnesses and the Post Mortem Notes and submitted that no case is made out for enlarging the Applicants on bail.

3. The F.I.R. is lodged by the son of the deceased which contains four names (1)Raja Narayan Shinde, (2) Narayan Appa Shinde, (3) Yuvraj Sashi Mali and (4) Sanjay Shinde. In so far as the Applicants in Criminal Application No.6841 of 2005 are concerned, it is obvious that name of the Applicant No.2 does not figure in the F.I.R. Name of the Applicant No.1 in the said Application is Sanjay Hanmant Shinde and the name appearing in the F.I.R. is Sanjay Shinde. Shri Mundargi, learned Senior Counsel appearing for the Applicants produced for my perusal voter's list of the same village which shows that there are number of persons in the said village having the name Sanjay Shinde. He submitted that the Applicant No.1 Sanjay Hanmant Shinde cannot be the person named as Sanjay Shinde in the F.I.R. The learned Advocate appearing for the Applicant in Criminal Application No.7034 of 2005 submitted that name of the Applicant is Narayan Sadashiv Shinde and in the F.I.R. name of one Narayan Appa Shinde is mentioned. My attention was invited to final report submitted under section 173 of the Code of Criminal Procedure, 1973 on page 16 of the said Application which discloses name of one of the accused as Narayan alias Appa Shinde.

4. The first informant Raju Bhosale has stated in

his statement that four persons named in the F.I.R. came to the house of his father. When they came to the house, they were shouting that thieves have entered the village. He stated that the said four accused persons took his father away and went walking. At that time said persons were carrying bamboo sticks and he saw them beating his father with bamboo sticks. He stated that as his father did not turn up in the morning he made inquires when he learnt that his father was taken to hospital at Satara. There is a statement of one Jayshree who is wife of real brother of the deceased. She supported the first informant in so far as the aforesaid version is concerned. However, she stated that the four persons named in the F.I.R. took the deceased to the village where other four accused persons named in the statement were there. She stated that number of persons who were present there were assaulting the deceased and they were carrying sticks. She stated that one person out of the persons who had gathered there, picked up a stone and hit the same on the head of the deceased. She stated that people from village assaulted the deceased with sticks and stones. Thus, the said witness has stated that the four persons named in the F.I.R. brought the deceased to the village where the villagers assaulted the deceased by sticks and stones.

As stated earlier, all other co-accused have been enlarged on bail including the four accused persons who are named in the statement of Jayshree who were present in the village and who participated in the assault on the deceased. Apart from this aspect there appears to be discrepancies in the names as stated above.

5. If this is the state of affairs, after filing of chargesheet the Applicants are certainly entitled to be enlarged on bail subject to stringent conditions.

6. Hence, I pass the following order:

CRIMINAL APPLICATION NO.6841 OF 2005.

i) The Applicants shall be enlarged on bail in connection with **C.R.No.14 of 2005 registered with Pusegaon Police Station, District Satara,** subject to furnishing a personal bond of **Rs.10,000/- each** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicants will mark attendance in the concerned Police Station once in a fortnight till conclusion of

the trial.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

CRIMINAL APPLICATION NO.7034 OF 2005.

i) The Applicant shall be enlarged on bail in

connection with **C.R.No.14 of 2005 registered with Pusegaon Police Station, District Satara,** subject to furnishing a personal bond of **Rs.10,000/-** with one or two local sureties in the like amount.

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vii) The parties to act upon an authenticated copy of this order.

CRIMINAL APPLICATION NO.7117 OF 2005.

i) The Applicant shall be enlarged on bail in connection with **C.R.No.14 of 2005 registered with Pusegaon Police Station, District Satara,** subject to furnishing a personal bond of **Rs.10,000/-** with one or two local sureties in the like amount.

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v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE